

City Council of the Mayor and Council of New Castle
Regular Council Meeting at Town Hall – 201 Delaware Street – New Castle
Tuesday – June 8, 2010 – 7 p.m.

Present:

Council President William Barthel
Councilperson John Cochran
Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: Mayor Klingmeyer, Treasurer Janet Carlin, City Administrator Cathryn Thomas, Police Chief Kevin McDerby, Building Official Jeff Bergstrom, City Solicitor Roger Akin

Approval of Minutes by Date

A motion was made by Councilperson Cochran to approve the minutes of May 4, May 11 and May 21 as written. The motion was seconded by Councilperson Megginson. The motion was approved unanimously.

Approval of Treasurer's Report

Treasurer Carlin reported that, as of May 31, 2010, total petty cash on hand was \$400; monthly, deposit, \$219,999.30; total cash for accounts, \$326,595.97; total certificates of deposit and Delaware Government Investment Pool, \$1,341,137.73; and total cash on hand, \$1,667,773.70.

Councilperson Gaworski made a motion to accept the report as presented. Councilperson Petty seconded the motion. The motion passed unanimously.

Report from the City Administrator

President Barthel said at the start of the meeting Mrs. Thomas was upstairs giving a presentation to the Trustees of New Castle Common on the trash in/trash out proposal for Battery Park. Her written report was provided to Council. She returned to City Council meeting upon completion of the presentation.

Approval of Staff Reports

Council President Barthel said the staff reports were accepted as presented in the packets.

Grant Review

Councilperson Cochran said the grant income in May was: Salle grant, \$541.47; Livable Delaware Grant, \$10,000; State of Delaware Community Transportation Fund, \$82,132.20; and VIPS equipment grant, \$2,014.65.

Communications

Councilperson Petty said she has an award for the City of New Castle from the DeLea Founders Insurance Trust that she accepted last month for the "Best Claims Reporting Response." She also received an award on behalf of Administrator Thomas for excellence in supporting a culture of safety and awareness.

Mayor Klingmeyer stated that Mrs. Thomas was responsible for the work on the first award as well.

Administrator Thomas said the awards reflected a team effort and commended the HR work of Marian Delaney and Kelly Dougherty.

Unfinished Business

1. Third reading and Adoption of Ordinance No. 472, concerning enforcement of the City's Abandoned Vehicle Code and amending that section of the Code so that the Code Enforcement Officer may perform enforcement functions, in addition to the New Castle City Police Department.

A motion to approve the adoption of the ordinance was made by Councilperson Gaworski. It was seconded by Councilperson Megginson. The motion was passed unanimously.

New Business

1. Consideration of a Request for Annexation of the property at 828 Frenchtown Road, which process shall be in accordance with the City Charter and consistent with the Comprehensive Plan, including an appointment by the Council President of a Committee of Three Council Members to study the request and make a recommendation to the full Council.

Shawn Tucker, counsel to the property owner, said the property is identified in the Comprehensive Plan for possible annexation. They are proposing a 40,000-square-foot building and approximately 750 parking spaces. A church is a current proposed use of the site. He asked that a three-person committee be appointed and review the request.

Mr. Akin said Mr. Tucker's request is correct regarding the procedure to appoint the review committee.

President Barthel asked Councilperson Megginson to chair the committee and Councilperson Petty and Councilperson Cochran to serve on the committee. The committee has 90 days to report.

2. An appearance by Mr. Joseph Capano to discuss matters relative to development of the Riverbend subdivision.

Joseph Capano said he was in attendance to discuss the 55+ designation for the project and problems that exist with that market today. In 2007, the market looked to be very viable. The market went flat—it is non-existent. In order for the project to be viable and generate revenue for the City and guarantee the job can be completed, it needs to be opened to a larger segment of the market. With a change in designation, other builders are willing to come in and should generate sales of 40 to 50 units a year. The 11 people with a vested interest in the community all signed off on the change, he said.

President Barthel asked where Mr. Capano is right now with the Army Corps and DENREC situation and whether they issued a moratorium.

Mr. Capano said the Army Corps came in in January 2009. They basically alleged the causeway that has been controlled and the county has had a permit to run sewer and put a maintenance road. The Army Corps has used 18 months to look for different situations. He is prepared to take them to

court. President Barthel said the City has heard the opposite may occur.

Mr. Capano said they have threatened. He said he has engineers and did everything possible and presented a 404 permit. All the movement was before he purchased the property. The road was recorded on the subdivision plan with understanding New Castle County wanted to put its sewer line through the property.

President Barthel said his next question is regarding the causeway. Mr. Akin has requested on behalf of the City that there be an engineering study done on the causeway because Mr. Bergstrom has expressed some concern that it is not stable.

Mr. Capano said they will spend the money but it's not the truth. They will do a compaction study any time the City wants. The causeway has been there for 2.5 years and it has not settled and it has not moved. He said it is frivolous but they will do it if it will resolve the issue.

President Barthel said his next question related to the water loop MSC has requested.

Mr. Capano said MSC is asking him to do a lot of more work than was supposed to be done off-site. They are asking them to tie in (MSC's) system. Mr. Capano said he had agreed to that, but also agreed to run down Route 9 with a 12-inch main through the job. They would use that for the benefit of the first 60 or 70 units. He said his group always agreed to put that in, but are not going to put it in if it was not necessary now to take care of the immediate housing that is going to be built. They tied up the job for a long time with things they are requesting that are not in there. Mr. Capano said they have never said they won't do it; but have said they would go over there when required. He added that MSC required a 12-inch line when only an 8-inch line is proven to be needed.

Mr. Capano said the project is having similar issues with electric.

Mr. Capano said it is going to be resolved in an equitable way or it is going to go to court with them. He added that he is at the meeting to tell City Council that the job is vulnerable to failure if they can not sell with it open to all people. They have turned away about 60 people, that would have had some interest in going forward, because they couldn't meet the 55 criteria.

Mr. Akin confirmed that Mr. Capano had named the City and MSC in a prior action related to a line on Route 9.

Mr. Capano said MSC owes him \$111,000 for labor and material. He said the City is supposed to be in control of MSC.

Mr. Barthel said as he understands there is an issue related to the size of the streets because it was going to be 55 and older. Mr. Bergstrom said there were some considerations related to parking.

Mr. Capano said the road is sufficiently wide for any subdivision road.

Councilperson Megginson asked about selling lots to other builders. Will this change the concept?

Mr. Capano said the builders would come in and build the same size and same profile.

President Barthel said the matter must go to the Planning Commission for review before the City Council acts on his request. It would then need to be changed through an ordinance.

3. Discussion of a proposed project entitled, "Dike Stabilization and Native Grasses Establishment Plan," at a projected cost of \$445,000, which would be a short-term, low-interest loan.

Administrator Thomas said early September is when the City would have to decide, which means that if it involved public borrowing it would require more time.

There is a possibility of additional grants to help pay for the project.

President Barthel said this is just to put a foot in the door in case funds become available.

Mayor Klingmeyer said there should be a public meeting regarding it.

President Barthel said the City Council held a public meeting last week. The City is going to move forward to see what is available.

Comments from the floor:

Erv Thatcher, of 7th Street, said he has come to every Council regarding traffic on 7th Street and still nothing is done. He invited Council to come to his house and look at the congestion.

Bruce Williams of Casimir Drive thanked the City for fixing the drainage ditch.

Chief McDerby said he is in possession of the results of the traffic study on 7th Street.

Councilperson Megginson said the City can implement the plan the past Council developed.

Councilperson Megginson made a motion to adjourn the regular meeting and enter an executive session. Councilperson Cochran seconded the motion. It was passed unanimously.

The meeting adjourned at 7:49 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk